

REMARKS

Reconsideration and allowance of the present application are respectfully requested. Claims 1-15 remain pending in the application. By this Amendment claims 1 and 2 are amended. No new matter is added.

On page 2 of the Office Action, independent claim 1, along with various dependent claims, is rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,754,221 (Whitcher et al.). On page 2 of the Office Action, dependent claims 2, 5, 9, 10 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Whitcher et al. patent in view of U.S. Patent 5,313,467 (Varghese et al.). These rejections are respectfully traversed.

Applicant has disclosed a method for allocating bandwidth over a cable network to establish a packet-switched telephony connection between two endpoints (abstract). The method begins by authorizing and reserving an allocation of bandwidth at the time of a call origination sufficient to establish a voice-band data connection between the endpoints. Next, only a portion of the allocation of bandwidth is committed (abstract and paragraph [0007]). This committed portion, which is sufficient to establish a compressed voice traffic connection between the endpoints, is a subset of the reserved allocation of bandwidth (e.g., paragraph [0007]). The reserved but uncommitted portion of the allocation of bandwidth is released so that it is available for another connection if at least one of the endpoints determines that the connection is to support voice traffic and not voice-band data (e.g., paragraph [0008]).

The foregoing features are broadly encompassed by independent claim 1, and are neither taught nor suggested by the documents relied upon by the Examiner

in the Office Action. For example, claim 1 recites a method of allocating bandwidth over a cable network for a packet-switched telephony connection between two endpoints, said method comprising the steps of: authorizing and reserving an allocation of bandwidth at the time of a call origination sufficient to establish a voice-band data connection between the endpoints; and committing only a portion of the allocation of bandwidth sufficient to establish a compressed voice traffic connection between the endpoints, wherein the committed portion of the allocation is a subset of the reserved allocation of bandwidth, wherein the reserved but uncommitted portion of the allocation of bandwidth is released from the reserved allocation of bandwidth for the connection based on a determination that a voice-band data traffic is not present in the connection.

Regarding the Whitcher et al. patent, on page 3 of the Office Action, the Examiner admits that "Whitcher et al fails to explicitly teach, 'releasing of the reserved but uncommitted portion of the allocation...to support voice traffic and not voice-band data'." At least for these reasons, Applicants respectfully submit that the Whitcher et al. patent would not have taught or suggested "authorizing and reserving an allocation of bandwidth at the time of a call origination sufficient to establish a voice-band data connection between the endpoints;...wherein the reserved but uncommitted portion of the allocation of bandwidth is released from the reserved allocation of bandwidth for the connection based on a determination that a voice-band data traffic is not present in the connection," as recited in claim 1.

Regarding the Varghese et al. patent, the Examiner asserts at page 3 of the Office Action that "However, Varghese et al teaches an integrated link controller (See fig. 2) that has a pre-determined policy in which voice circuits have a priority

over data transmission for bandwidth." The Examiner then appears to conclude that the "pre-determined policy" can somehow read "into the teaching of Whitcher to prioritizing voice over data to ensure availability of bandwidth for voice services." Applicants respectfully disagree with the Examiner's ultimate conclusion.

Applicants' claimed releasing of the reserved but uncommitted portion of the allocation of bandwidth from the reserved allocation of bandwidth is not a pre-determined policy as the Examiner appears to have mischaracterized Applicants' claimed feature, but rather Applicants' releasing of the reserved but uncommitted portion of the allocation of bandwidth is based on a determination that a voice-band data traffic is not present in the connection. This determination is based on a detection process and cannot be "pre-determined" based on a policy as the Examiner appears to have misconstrued Applicants' claim feature.

Further, the Examiner appears to have taken the Varghese et al. patent entirely out of context. For example, the integrated link controller 12 of Fig. 2, which the Examiner appears to rely on, is a mere link controller within a time division multiplexed system 10 that causes "the T-carrier interface 58 to place the voice circuit in the allocated slot" (col. 5, lines 1-9; and col. 8, lines 1-3)." It appears it would be a far stretch beyond reason to assert that this time-slot based allocation as disclosed by the Varghese et al. patent would somehow read on Applicants' reserved but uncommitted portion of the allocation of bandwidth which is released from the reserved allocation of bandwidth for the connection based on a determination that a voice-band data traffic is not present in the connection, as recited in Applicants' claim 1.

At least for these reasons, the Whitcher et al. patent and the Varghese et al. patent, considered individually or in combination, fail to teach or suggest a method for "authorizing and reserving an allocation of bandwidth at the time of a call origination sufficient to establish a voice-band data connection between the endpoints;...wherein the reserved but uncommitted portion of the allocation of bandwidth is released from the reserved allocation of bandwidth for the connection based on a determination that a voice-band data traffic is not present in the connection," as recited in claim 1.

Even if the references could have been combined in the manner asserted by the Examiner, the combination would not have resulted in the features as recited in claim 1. For example, even if the Whitcher et al. patent and the Varghese et al. patent were to have been combined as the Examiner suggested, the combination would not have resulted in 1) a reserved but uncommitted portion of an allocation of bandwidth which is released from the reserved allocation of bandwidth for the connection 2) based on a determination that a voice-band data traffic is not present in the connection, as recited in Applicants' claim 1.

For the foregoing reasons, Applicant's claim 1 is allowable. The remaining dependent claims recite additional advantageous features which further distinguish over the documents relied upon by the Examiner. As such, the present application is in condition for allowance.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and a Notice of Allowance is respectfully solicited.

Respectfully submitted,

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